

September 23, 2013

**VIA ECFS**

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

Re: *Ex Parte Presentation in the Matter of Connect America Fund, High-Cost Universal Service Support, WC Docket Nos. 10-90, 05-337*

Dear Ms. Dortch:

On September 20, 2013, John Badal, President and CEO of Sacred Wind Communications, Inc. ("Sacred Wind") and myself, met with Priscilla Delgado Argeris, Legal Advisor for Commissioner Jessica Rosenworcel.

During the meeting, we provided an overview of Sacred Wind's deployment of an advanced 3.65 GHz IP-based fixed wireless local loop network on Navajo Reservation and near-Reservation lands in New Mexico, and provided an update on the company's activities, particularly as a model for bringing voice and broadband services to historically unserved and underserved tribal lands. We also discussed the impacts on Sacred Wind of the Commission's *USF/ICC Transformation Order* and follow-on decisions. In particular, as reflected in the attached presentation, Sacred Wind discussed concerns with potential represervation of the authorized rate of return, the importance of maintaining at a constant, predictable level, the joint OPEX/CAPEX cap adopted in the Sixth Order on Reconsideration in the captioned proceeding, and giving consideration in the quantile regression analysis (QRA) to higher cost companies with high investment and depreciation costs in sparsely populated areas.

The presentation also included a potential projected reduction in high-cost loop support (HCLS) in 2016 for Sacred Wind based on the application of the QRA. As shown in the example, even though Sacred Wind is investing in its network to reach additional customers with voice and broadband service, the company could get penalized by the QRA caps, and shows the impact on Sacred Wind based on the *USF/ICC Transformation Order* and subsequent decisions without a cap on the QRA adjustment. At this point, we do not know how the Commission will proceed with the 2014 calculation, and are hopeful that further clarifications made by the Commission of the *USF/ICC Transformation Order*, specifically related to the particular investment and operating expenses of a startup company, will dispel these concerns.

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Nonetheless, this is precisely the concern with the unpredictability of the QRA caps. If companies cannot forecast today with some level of predictability what impact their investment plans for next year will have on their HCLS revenues and their potential for being "penalized" by the quantile regression caps, companies, such as Sacred Wind and other rural providers serving tribal lands, face significant uncertainty and risk with continuing to build out their networks to serve unserved and underserved remote areas. In sum, the inclusion of the projected 2016 HCLS reduction serves to show that even though some of the short-term fixes implemented with regards to QRA have helped Sacred Wind to continue to build out and provide services to additional customers in its rural, remote service area, the long-term impact of the unpredictability of QRA is still a significant concern for Sacred Wind and the industry, and one that needs to be expeditiously addressed and resolved.

Thank you for your attention to this matter. If you have any questions regarding this *ex parte* presentation, please do not hesitate to contact the undersigned.

Respectfully Submitted,

**SACRED WIND COMMUNICATIONS, INC.**

By: /s/ Martin L. Stern  
Martin L. Stern  
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*Its Counsel*

Attachment

cc: Priscilla Delgado Argeris



# Telecommunications & Broadband Service Delivery to the Navajo Nation

(Discussion of CAF Reform concerns & service  
achievements)

FCC Meetings, September 2013

# Before & After RUS Investment

## **Navajo area under Qwest**

As of December 2006

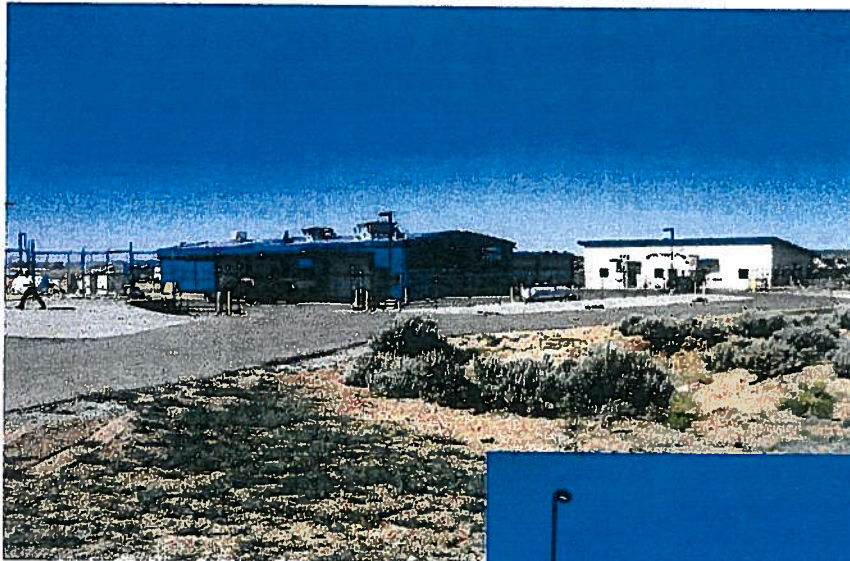
- 26% dialtone coverage
- 0% broadband
- 26 Tribal Lifeline cust.'s
- No new installs
- No new investment
- Trouble report rate >10%

## **Navajo area under Sacred Wind**

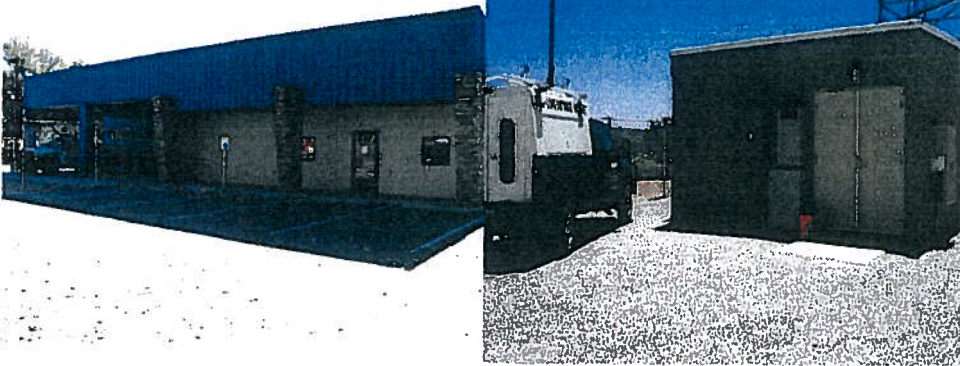
As of August 2013

- 85% dialtone coverage
- 85% broadband
- 2,012 Tribal Lifeline
- 1,708 new installs
- \$45M in new investment
- Trouble report rate <3%

# Operations Facilities



- 2 Central Offices
- 3 tech sites/warehuses
- Serving 3600 sq. miles



# Subscriber radio

- ✓ 600 Airspan @ 3.65 Ghz
- ✓ 300 Motorola @ 3.65 Ghz
- ✓ Airspan ATA (modems)
- ✓ Polyphasers (Lightning suppressors)
- ✓ All enabled at > 5 Mbps per subscriber





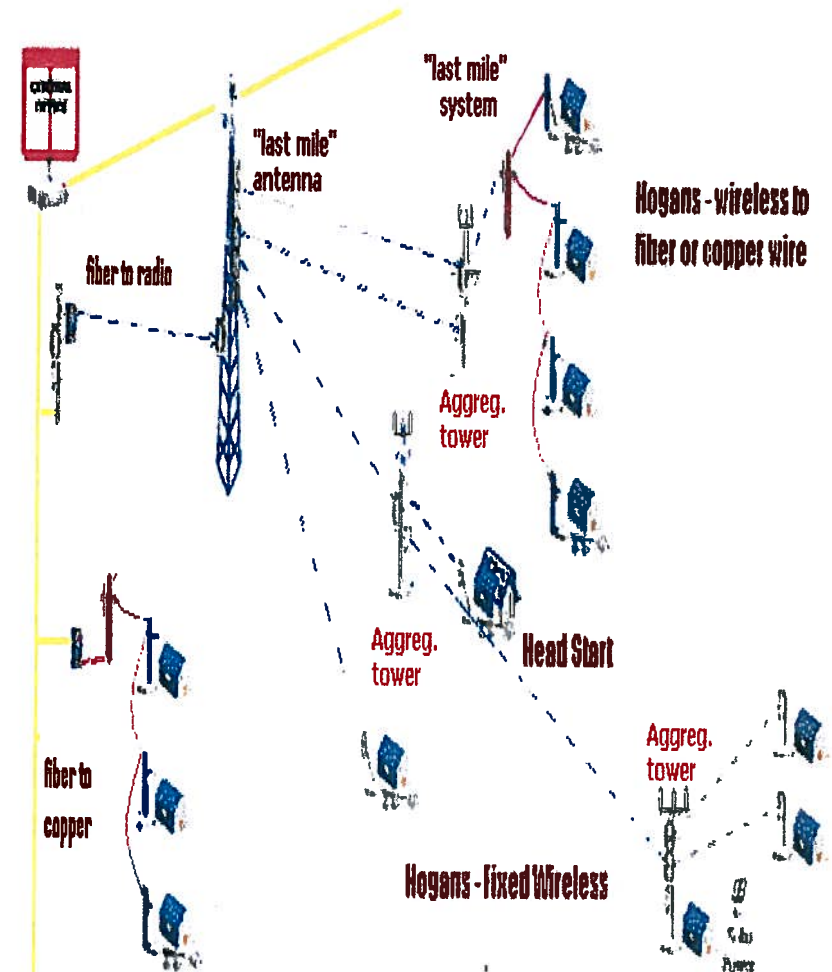
# Other outside plant

- “Rehome” 28 Meetpts
- 44 Broadband cabinets
- > 150 Miles of copper rehab & expansion
- 118 miles fiber optic



# Hybrid Wireline to Radio Network

- Largest Fixed Wireless application of Voice & Broadband in the U.S.
- Fiber to copper
- Fiber to radio
- Copper to radio
- Radio to radio





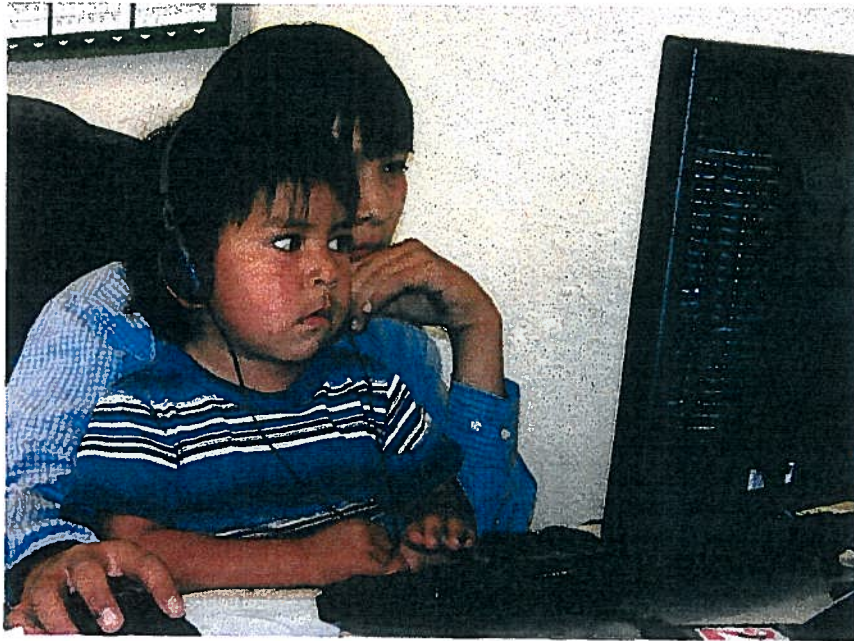
# Tower Infrastructure

- ✓ 15 towers
  - 9 also used for distribution
- ✓ Shelters w backup generators
- ✓ 6 monopoles
- ✓ 1 Tower on Wheels



# Other benefits

**3,200 Access lines + counting**



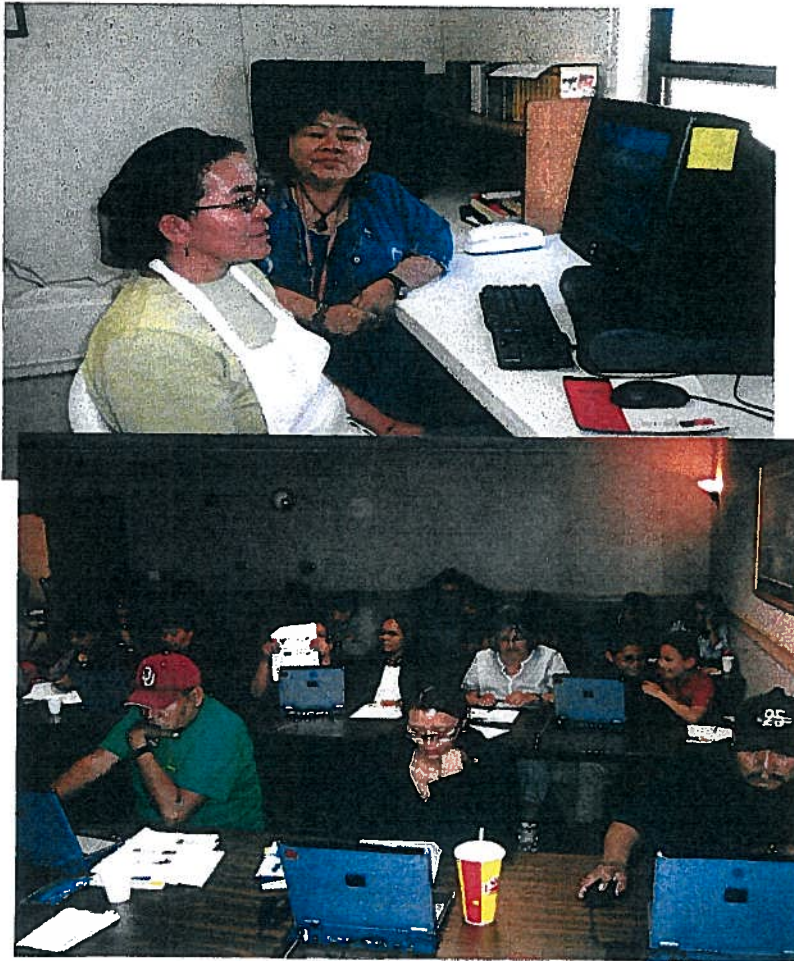
**40 employees**





# Accomplishing FCC's Universal Service Goals

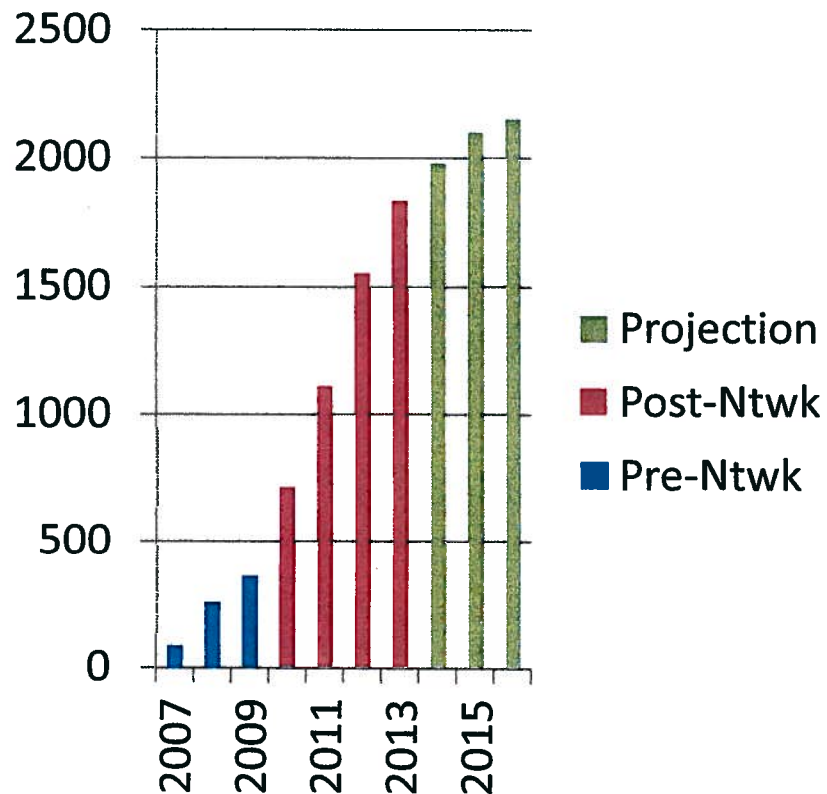
Sacred Wind embodies Rural Development model



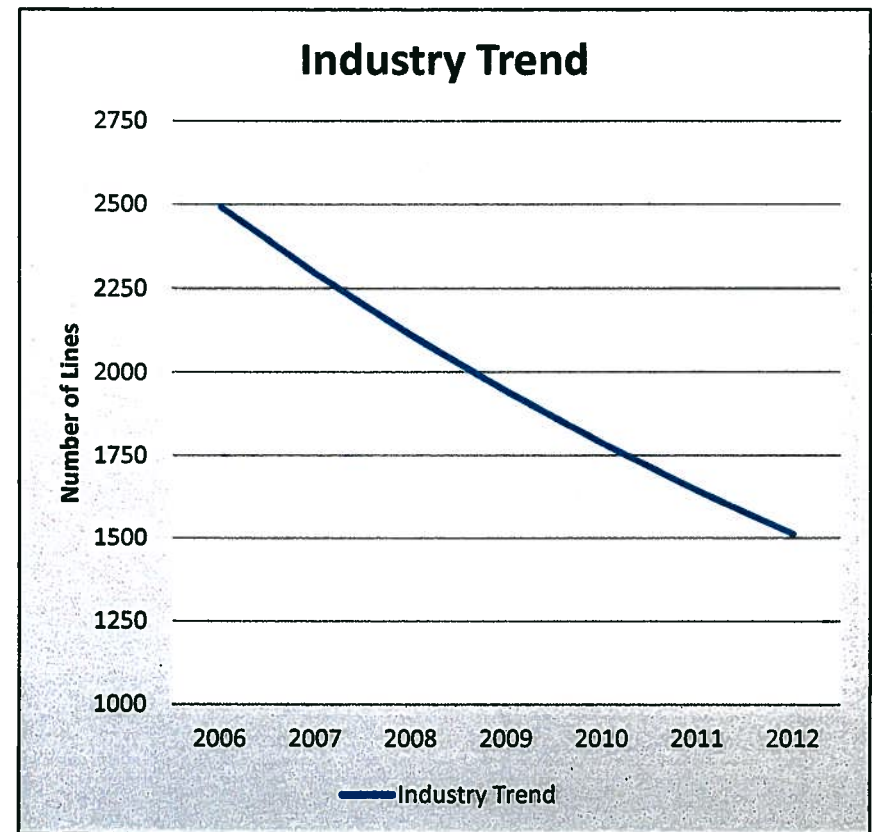
- Achievements:
  - Built new infrastructure
  - Hired/trained tribal talent
  - Gaining customers every month – mass expansion now
  - Increased tribal lifeline subscribers from 26 – 2,152
  - Increased broadband *coverage* from 0% - 85%
  - Broadband *usage* from 0% - 30%
  - Voted “Most Inspiring Small Business in America, 2009”

# Subscriber Gain/Loss

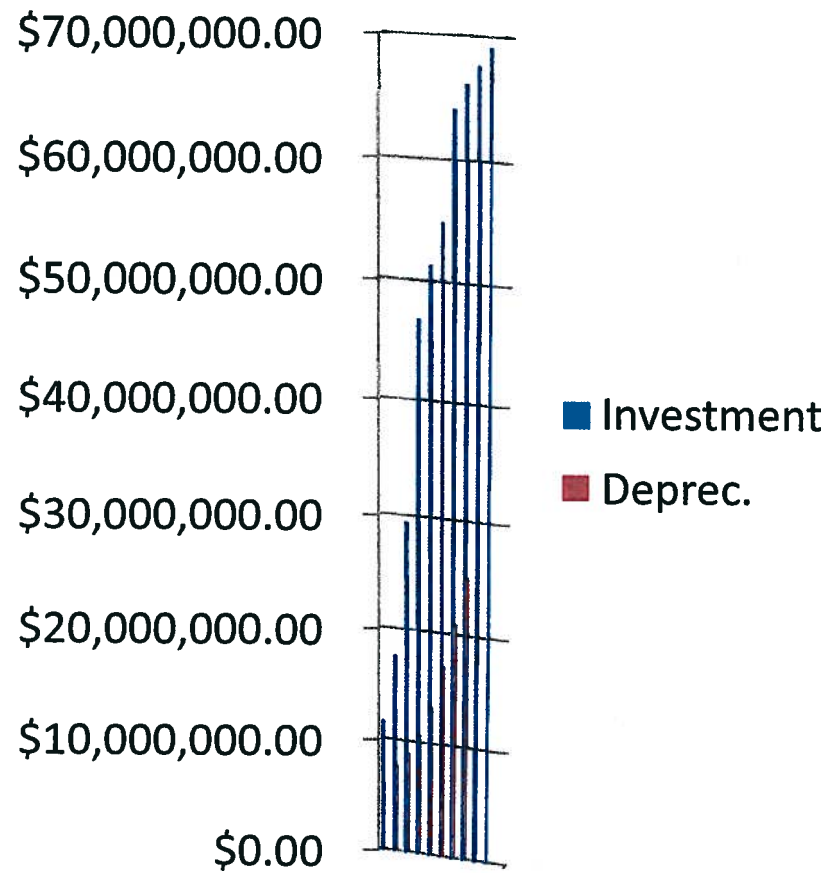
## Sacred Wind cumulative



## Industry trend



# Investment





# *Rural Development model has worked in tribal areas*

## **Federal/Telco partnerships**

- Cheyenne River Sioux
- Gila River
- Ft. Mojave
- Tohono O'odham
- San Carlos Apache
- Saddleback (Salt River Pima-Maricopa)
- Mescalero Apache
- Sacred Wind
- Hopi

## **RLECs that cannot pass urban market tests**

- High initial debt due to needed infrastructure
- Low density population
- Low income population
- Challenging terrain
- Federal land permitting
- Negligible exterior market opportunities
- Highest operating costs

## Broadband Relevance

### Sacred Wind's Dinehnet

*Culturally oriented broadband*

- Online Navajo language training
    - Exclusive by Rosetta Stone
  - Navajo history
    - Code Talkers video clip
    - Longest Walk video project
  - Navajo clan information
  - Navajo traditional medicines
- 
- Medical information & newsletter
  - Government services information & links



# Sacred Wind at risk?

## 2011 Projections

- SWC to exceed \$250 mo. Cap
- SWC to exceed CAPEX cap
- 25% – 32% reduction in total USF support
  - HCLS – 33% reduction

## 2013 Reality

- AL gain minimized HCLS impact from \$250 Cap
- OPEX & CAPEX caps unified
- No overall reduction in 2013
  - FCC unified Caps in clarification order
  - FCC limited HCLS impact to 50%/10% in clarification order

# Sacred Wind at risk?

What awaits the industry 2014-2019?

## Pending FCC reform initiatives

- RoR Represcription
- Zero carrier compensation
- QRA cap adjustments

## Projected impacts per CAF Order

Impact	2014 Est.	2015 Est.	2016 Est.
\$250 Cap/mo.	0	0	0
Safety Net Additive	0	0	0
QRA - HCLS	0	(\$13,223)	(\$700,000)
ICLS Corp. Cap	0	0	0
Switched Access Phase-down	(\$70,470)	(\$96,294)	(\$122,118)

# Are we witnessing the end of Rural Development model?

## Environment

- Low income/high cost area
- Incumbent not expanding
- Mobile service inadequate
- CAF support diminishing
- RLECs more risk averse
- RLECs more debt averse
  - RUS loans untapped

## Tribes w/in reach of SWC

